

Reinitiation of ESA Consultation for 2003 and 2004 Water Operations on the Rio Grande



Note: Slides 12 and 13 were corrected on February 5, 2003

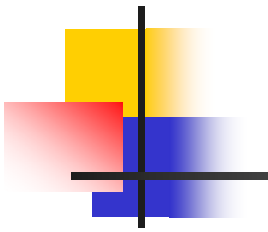


Purpose of this Meeting

- Provide background information on ongoing Section 7 consultation
- Brief stakeholders on draft biological assessment prepared by Reclamation and the Corps
- Distribute the draft BA
- Seek input on 2003 water operations

United States District Court Decision

September 23, 2002

- 
- **Chief United States District Judge James Parker found F&WS September 12, 2002 BO amendment was arbitrary and capricious.**
 - **Judge Parker ordered reinitiation of formal consultation pursuant to Section 7(a)(2) of ESA for the remainder of 2002 and 2003.**
 - **Reclamation never adopted that BO amendment and operated in compliance with June 2001 BO throughout the 2002 water year.**

United States District Court Decision

September 23, 2002



- The District Court held that if necessary to meet flow requirements in 2003 . . .
 - "Reclamation must reduce contract deliveries under the SJC Project and/or the MRG Project, and/or must restrict diversions by MRGCD under the MRG Project."



Tenth Circuit Court of Appeals

October 15, 2002

- **Stay of the district court's order**
- **Did not “intend to impede in any way ongoing consultations seeking alternative solutions to the problems caused by current and projected drought conditions”**



Status of Appeal

- **U.S. requested an expedited briefing on the appeal.**
- **Agencies committed to carrying out a two-track consultation for 2003.**
- **Consultation to be completed by March 1, 2003.**
- **10th Circuit hearing was January 14.**



U. S. Appeal Brief

Summary of Argument

- **Reclamation does not have discretion to reduce SJC and MRG Project water deliveries that it is required to make by contract**
- **District Court erred in ordering Reclamation to compensate irrigators for deliveries reduced due to court's flow requirements**



Reclamation's Request to the U.S. Fish & Wildlife Service for Reconsultation

- **Request for reconsultation - Oct 25, 2002 letter**
- **Two-track consultation, pending outcome of 10th Circuit decision:**
 - 1. Reclamation cannot unilaterally release stored SJC or MRG Project water solely for endangered species purposes.**
 - 2. Reclamation has the discretion to use SJC and/or MRG Project water solely for endangered species purposes.**



Hydrologic Reality

Multiple years of drought

- **2000, 2002, 2003(?)**
- **Heavy use of water in storage to meet the consumptive demand for water.**

Article VII of the Rio Grande

Compact will be operative this year

- **On July 2, 2002, the amount of usable water stored in Elephant Butte and Caballo reservoirs (Rio Grande Project storage) fell below 400,000 acre-feet.**



Hydrologic Reality

Anticipated storage conditions . . .

- Elephant Butte/Caballo storage will not likely reach 400,000 af during 2003
- Only water for Pueblo lands is being stored in El Vado
- Additional 2003 water storage in Heron is unknown (6,000 af transbasin diversion in 2002)
- Conservation Water Agreement may not be operative during 2003

Heron

**Full (Active
Conservation)**

**Current
Content**

MRGCD

City of Alb.

**Other SJC
Contractors**

Federal

401,000af

159,939af

20,900af

48,200 af

28,601af

61,731af

El Vado

**Full (Active
Conservation)**

**Current
Content**

MRGCD SJC

**Prior & Par.
Native RG**

**Other SJC
Contractors**

Rio Grande

180,000 af

12,181af

0 af

4,026af

6,095af

2,060af

Abiquiu

**Full (Active
Conservation)**

**Current
Content**

MRGCD SJC

**City of Alb.
SJC**

**Other SJC
Contractors**

**Conservation
Pool**

185,000 af

43,942af

0af

30,165af

12,993af

0 af

Cochiti

**Current
Content**

49,925af

Elephant Butte & Caballo

**Full Combined (Active
Conservation)**

**Current Combined
Content**

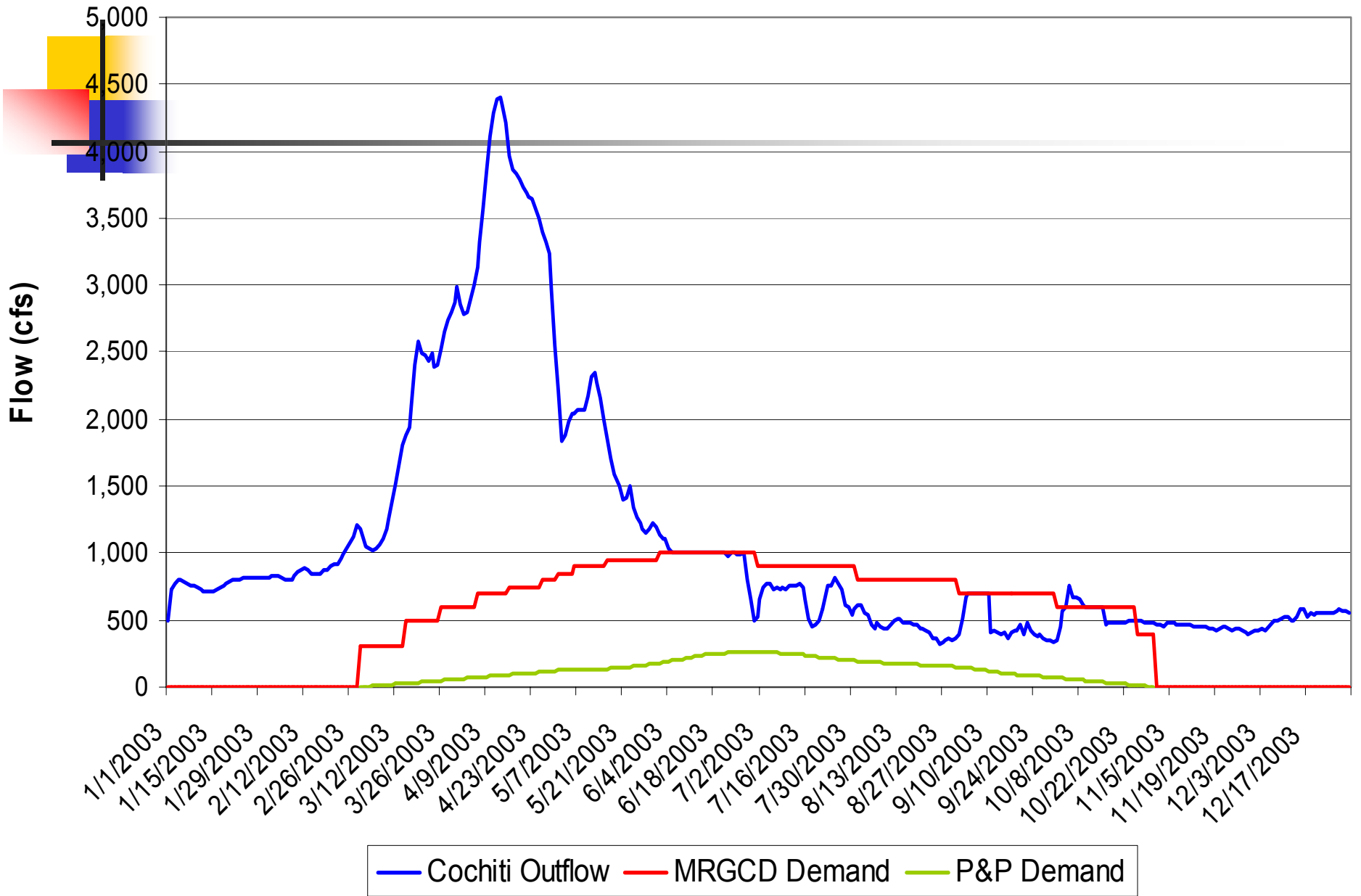
**Rio Grande
Project Storage**

2,254,000 af

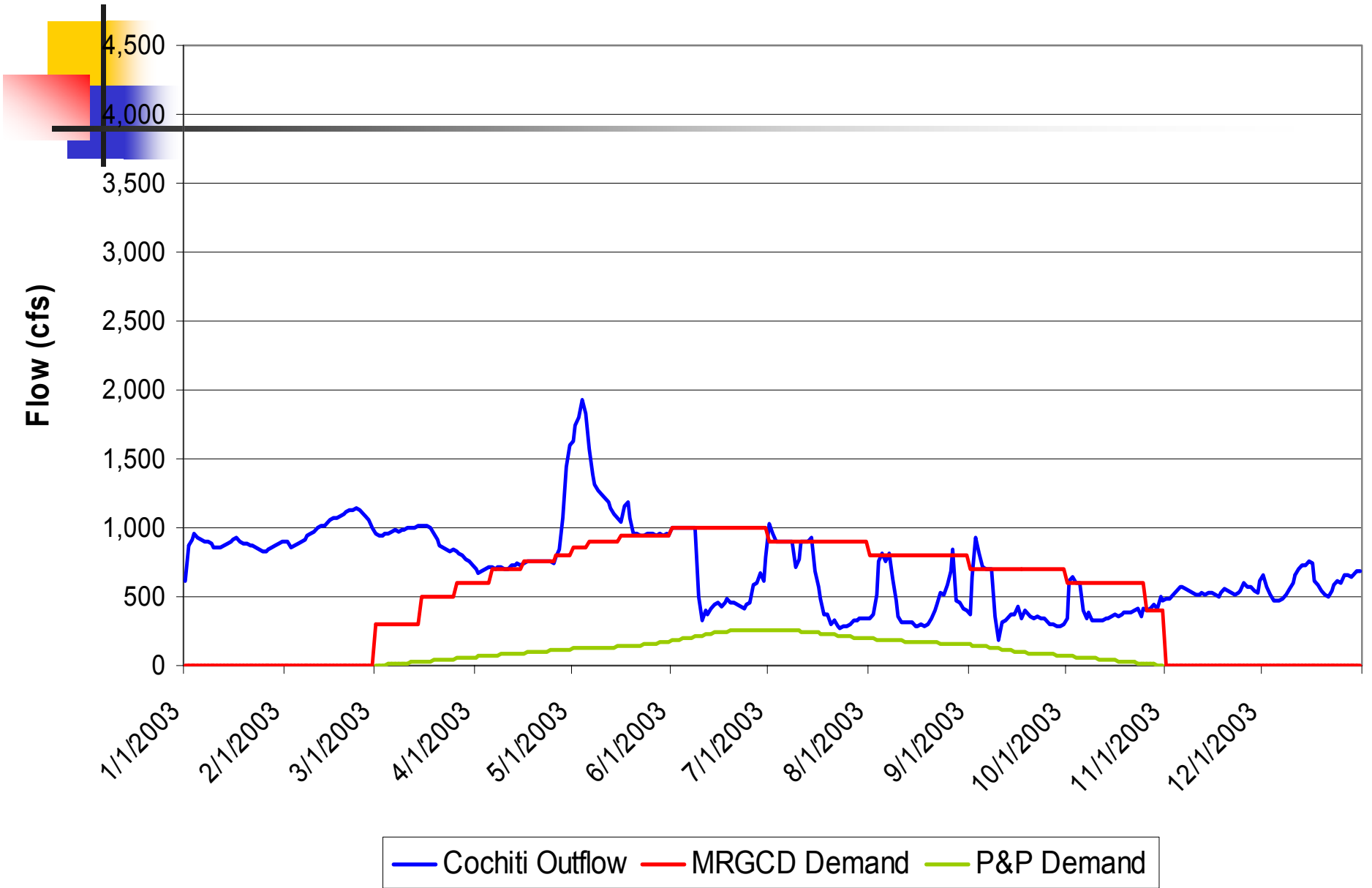
416,000af

99,600af

2003 Average Year Estimated Cochiti Outflow Based on 1989 runoff



2003 Dry Year Estimated Cochiti Outflow
Based on 1996 runoff





Highlights of Draft BA

- Reclamation/Corps are consulting over their proposed actions
- Potential RPA's and court-ordered actions not proposed, but identified in BA appendices
- Multiple-year coverage – 2-year period



Highlights of Draft BA

- **Non-federal coverage**
 - **Non-Federal actions under consultation are general depletions within the administration of the Rio Grande Compact**



Highlights of Draft BA

- In general, Reclamation and the Corps propose to deliver water and operate facilities to meet the demands of water users, flood control beneficiaries, and other stakeholders.



Highlights of Draft BA

- **San Juan-Chama Project - Heron**
 - Operate Heron Reservoir within hydrological constraints
 - **Meet contractual water delivery obligations**
 - **Maximize storage for future delivery up to a safe storage amount of 401,000 af**
 - Request temporary waivers from contractors
 - Dispose of uncalled for contractor water



Highlights of Draft BA

- **San Juan-Chama – Pojoaque Unit**
 - Release water to offset storage effects at Nambe Falls Reservoir



Highlights of Draft BA

■ **Middle Rio Grande Project – El Vado**

- Operate and maintain El Vado within hydrological constraints
 - **Meet MRGCD water calls**
 - **Maintain safe storage level**
 - **Store for MRG Pueblos**
 - **Store San Juan-Chama water if requested by MRGCD**
 - **Release water for MRG Pueblos**



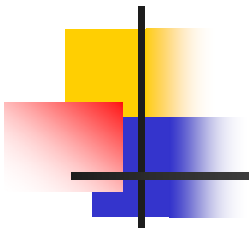
Highlights of Draft BA

- **Middle Rio Grande – Diversion Dams**
 - Allow MRGCD to continue to operate diversion dams as an agent of the United States



Highlights of Draft BA

- Operate (drainage) and Maintain Low Flow Conveyance Channel
- Conduct River Maintenance
- Cooperate with State of New Mexico on reimbursable maintenance projects
- Prepare an annual operating plan
- Conduct biological and hydrological monitoring



Draft BA - Appendix A – Actions within Reclamation's Discretion for RPA's, RPM's, or Conservation Recommendations

- Reclamation purchases water under supplemental water program
- Low Flow Conveyance Channel Pumping
- Coordinate facility operations with water users.
- Support fish rescue efforts
- Other environmental actions



Draft BA - Appendix B – Additional potential discretionary actions if Judge Parker decision is affirmed by 10th Circuit

- Appendix B will described operation of MRG Project and SJC Project with additional discretionary actions of District Court.
- Decisions will be made after stakeholder review



Appendix B - Categories of potential water supplies that can be used or restricted (in no order of priority)

Middle Rio Grande Project

- Restrict natural flow diversions by MRGCD for non-Indian and Indian newly reclaimed lands
- Restrict natural flow diversions by MRGCD for Prior and Paramount lands



Appendix B - Categories of potential water supplies that can be used or restricted (in no order of priority)

Middle Rio Grande Project

- Curtail storage of water for MRGCD non-pueblo lands in El Vado
- Curtail storage of water for Indian lands in El Vado
- Release stored water for MRGCD non-Indian and newly reclaimed lands from El Vado
- Release stored water for Prior and Paramount lands from El Vado



Appendix B - Categories of potential water supplies that can be used or restricted (in no order of priority)

■ San Juan-Chama Project

- Reduce 2003 Allocations to San Juan-Chama contractors
- Release stored water in Heron Reservoir (firm yield pool)



Draft BA – Appendix B

Considerations for implementation . . .

- Restrictions, curtailments or shortages imposed on MRG, tribal and/or San Juan-Chama contractors?
- Restrictions, curtailments or shortages be undertaken on a strict regimen (e.g., exhaust one source of water before going to the next source) or some sort of “share the pain” basis?



Schedule of Consultation

Pueblo briefing – January 16

**Stakeholder Meeting and Release of
Draft BA – January 28**

**Stakeholder Review - January 28
thru February 7**

Final BA to F&WS – February 12

**Final BO from F&WS at end of February
Develop operations plan**



Other Milestones

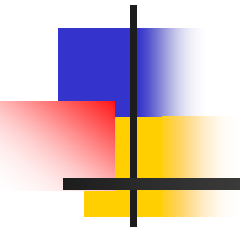
- **10th Circuit issues decision – anticipated by end of February**
- **Irrigation season begins – March 1**



Q&A and Next Steps

- Questions and comments are welcome at this time
- Stakeholder input accepted through February 7
- Comments will be summarized and provided to DOI management for consideration

Send Comments to . . .



Kenneth G. Maxey

Area Manager

U.S. Bureau of Reclamation

505 Marquette NW, Suite 1313

Albuquerque NM 87102-2162